

From: Ex. 6 (PP) Administrator Regan
(FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6267D0AAE1FE4B8ABF0EEF2E90885C8C-ADM16.MICHA]
Sent: 9/10/2022 1:09:52 AM
To: Hamilton, Lindsay [Hamilton.Lindsay@epa.gov]
Subject: Re: E&E: Regan faces whistleblower lawsuit

Thank you ...

Sent from my iPhone

On Sep 9, 2022, at 9:07 PM, Hamilton, Lindsay <Hamilton.Lindsay@epa.gov> wrote:

Regan faces whistleblower lawsuit

The EPA administrator is at the center of claims alleging that he sought to cover up a subordinate's racist comment when he led the North Carolina Department of Environmental Quality.



BY:

KEVIN BOGARDUS

| 09/09/2022 01:41 PM EDT



EPA Administrator Michael Regan.Brandon Bell-Pool/Getty Images

GREENWIRE | EPA Administrator Michael Regan has been accused by a former employee in North Carolina of seeking to hide a colleague's racist remarks and retaliation against staff.

While secretary of the North Carolina Department of Environmental Quality, Regan is alleged to have pressured Melody Isaak, then the state agency's human resources director, to disprove a racist comment allegedly made by Regan's then-deputy, John Nicholson. When Isaak, who is Black, refused to do so, she fell under investigation for a separate matter and was subsequently fired.

In response, Isaak filed her lawsuit in Wake County Superior Court in August 2021, naming Regan, Nicholson and the North Carolina DEQ as defendants. She is seeking damages, reinstatement into "a substantially similar position" at the agency, attorney fees and a jury trial.

The episode is relevant to Regan's federal service. The lawsuit was filed after he became administrator, the first Black man to lead EPA. Further, Nicholson is no longer at the state agency but is now a top official at EPA, too. He serves as chief of staff for Region 4, which manages the agency's operations throughout the Southeast.

The court records, first reported on by *The Assembly*, describe a tense workplace amid worries over retaliation at the North Carolina DEQ.

In 2018, a custodian told Isaak he overheard a remark from Nicholson, who is white, about her and other Black women she was meeting with.

"They need to quit holding those Black Klan Pep Rally Meetings; this is a place of business," Nicholson is alleged to have said, according to the lawsuit.

Isaak relayed the custodian's observation to Regan, who then frequently intervened with Isaak to have her disavow knowledge of the comment, according to the lawsuit. When she failed to do so, she was later investigated and then terminated.

Other court records show Nicholson denied making the racist comment. In addition, Regan, Nicholson and the state environmental agency disputed many of Isaak's allegations.

They relied on an investigative report of Isaak as reason for her termination, according to the records. She is alleged not to have followed policy when handling a complaint against her.

The state of North Carolina filed a motion to dismiss the case in October 2021. In that filing, the state asked the court to stay proceedings, including discovery, and a hearing be held on their motion.

Isaak was not available for an interview by press time. Her attorney, Jack Nichols, told E&E News depositions are ongoing and the state will schedule their motion to dismiss later this fall.

EPA spokesperson Lindsay Hamilton referred E&E News to the North Carolina Department of Justice.

"Because this is ongoing litigation, we are unable to comment beyond what's been publicly filed," Nazneen Ahmed, a spokesperson for the state's Justice Department, said.

The department is providing counsel to Regan, Nicholson and the North Carolina DEQ for the case.

A 'very serious' matter



Then-North Carolina DEQ Secretary Michael Regan and Chief Deputy Secretary John Nicholson with North Carolina Division of Marine Fisheries Director Steve Murphey and state Marine Patrol Col. Dean Nelson on a marine patrol in August 2018. |

NCDEQ/Instagram

Isaak had served as the state agency's deputy HR director for 13 years before being promoted to director under Regan's watch. As head of the office, she "met or exceeded" work expectations, her lawsuit said.

In 2017, Isaak learned that she had fallen under scrutiny from Nicholson, questioning whether she had tried to "rack up" comp time by working extra hours. In addition, Nicholson had complained about Isaak frequently meeting with two other Black female employees.

That led to Nicholson's alleged "Black Klan" comment in 2018, which a custodian told Isaak about and she then reported to her supervisor.

Then in 2019, after being promoted to HR director, Isaak recalled Regan told her to "cut the apron strings" or stop meeting so often with her two other colleagues. "Hopefully by the time this meeting is over I will have you really feeling paranoid," Regan said, according to the lawsuit.

Then in 2020, after some urging, Isaak told Regan about Nicholson's racist comment, which Regan said was a "very serious" matter. Later, Regan told Nicholson about the allegation, which angered him and said was a "set-up," according to the lawsuit.

Regan told Isaak that Nicholson requested she and her colleagues write statements saying they did not believe Nicholson was a racist. In addition, Regan said he would keep those statements in his desk drawer, not in the employees' official HR files. Regan made this request again later on, the lawsuit said.

Isaak also met with Regan and Nicholson together and was pressured to make a statement, which she was uncomfortable doing.

Nicholson then began "a pattern of demeaning and hostile treatment" toward Isaak in the workplace, she claimed. Regan also canceled future regular HR meetings with her.

Later, Isaak was the subject of a separate complaint. Nicholson told her she was placed on investigatory leave, which was then extended several times. Then in August 2020, she was dismissed for "mishandling" the complaint against her, which she had recused herself from investigating, according to the lawsuit.

The lawsuit said there was no proof that Isaak had done anything improper. Further, Regan declined to disclose the investigation's findings against her and is alleged to have said at a pre-disciplinary conference, "I am not here to be on trial or answer other questions."

Isaak has appealed her termination before, but that effort failed. In December 2020, her complaint to the state's Office of Administrative Hearings was dismissed, holding she wasn't subject to state law governing appeals of disciplinary action.

Longtime colleagues

Regan has worked with Nicholson for many years. The two overlapped at the Environmental Defense Fund. Then in 2017, Regan named Nicholson chief deputy secretary at the North Carolina DEQ after the former was appointed secretary.

Nicholson, a retired U.S. Marine Corps colonel, was the military affairs adviser to former North Carolina Govs. Bev Perdue (D) and Pat McCrory (R). He also worked for Panthera Training, which provides security training for public- and private-sector clients (*Greenwire*, Feb. 1).

Nicholson joined EPA earlier this year as chief of staff in Region 4.

It is an important job. Nicholson has been on site with other agency officials in Jackson, Miss., to help resolve the city's water crisis (*Greenwire*, Sept. 7).

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Sent from my iPhone

From:

Ex. 6 (PP) Administrator Regan

Sent:

9/10/2022 3:33:00 AM

To:

Michalos, Maria [Michalos.Maria@epa.gov]

CC:

Lucey, John [Lucey.John.D@epa.gov]

Subject:

Re: E&E News: Regan faces whistleblower lawsuit

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BY: KEVIN BOGARDUS

| 09/09/2022 01:41 PM EDT



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From: Michalos, Maria [Michalos.Maria@epa.gov]
Sent: 9/10/2022 1:25:14 AM
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CC: Lucey, John [Lucey.John.D@epa.gov]
Subject: E&E News: Regan faces whistleblower lawsuit

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